

Alert | White Collar Defense & Special Investigations



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DOJ Signals Concerted Effort to Prosecute Alleged Cryptocurrency Fraud

On June 30, 2022, the U.S. Department of Justice (DOJ) announced criminal charges against six defendants in four separate criminal cases involving alleged fraud in the offering of cryptocurrency investment vehicles. The DOJ press release announced charges in four separate and apparently unrelated cases, filed in two different districts: the Southern District of Florida (Miami) and the Central District of California (Los Angeles).^[1]

DOJ's decision to file charges near-simultaneously in four different cases and to issue a single omnibus press release appears calculated to signal its seriousness in cracking down on cryptocurrency fraud schemes nationwide. In October 2021, DOJ announced the creation of a National Cryptocurrency Enforcement Team (NCET) to tackle complex investigations and prosecutions of criminal misuses of cryptocurrency, particularly crimes committed by virtual currency exchanges, mixing and tumbling services, and money laundering infrastructure actors worldwide.

^[1] <https://www.justice.gov/opa/pr/justice-department-announces-enforcement-action-charging-six-individuals-cryptocurrency-fraud>

DOJ's June 30 press release makes no mention of NCET's involvement in any of charged cases. But given that building a criminal case, especially a complex financial case, can take many months, we may not yet have seen the full scope of enforcement that will emerge as a result of the NCET's effort.

Several of the newly filed cases have a cross-border component given cryptocurrency's oft-touted potential to enhance the efficiency of cross-border financial transactions. For example, an affiliate of one of the investment companies that allegedly offered fraudulent non-fungible tokens was located in Mexico and was accused, as an unindicted co-conspirator, of laundering the criminal proceeds of the scheme.^[2]

In another case, two Brazilian nationals and a U.S. national were charged in Miami for allegedly perpetrating a global cryptocurrency-based Ponzi scheme that generated approximately \$100 million from investors. Among other things, the government alleges that the defendants falsely represented to investors that they had a proprietary trading bot that could generate outsized returns and they performed fictitious demonstrations purporting to show the bot executing trades. In addition to wire fraud charges, the defendants were also charged with securities fraud based on DOJ's allegation that the trading bot qualified as a security under federal law. Separate civil complaints were also filed by the U.S. Securities and Exchange Commission (SEC) and the U.S. Commodities Futures Exchange Commission (CFTC), which alleged that two of the defendants have fled to Brazil.^[3]

With the NCET now supplementing the existing DOJ resources responsible for these matters, we may expect to see additional cryptocurrency fraud and money laundering enforcement actions in the near term.

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^[2] *United States v. Le Ahn Tuan* (C.D. Cal. 2:22-cr-273).

^[3] *United States v. Emerson Pires et al.* (S.D. Fla. 2:22-cr-20296).

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